IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17518 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAVAL HARSHADRAI NATWARLAL - Petitioner(s)
Versus
VINAYAK NATWARLAL VYAS & 7 - Respondent(s)

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Appearance :
MR RA SEJPAL for Petitioner(s) : 1,
MR GM JOSHI for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 7.
MR RITESH K SONI for Respondent(s) : 3,
MS MANISHA L SHAH AGP for Respondent(s) : 8,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 12/09/2006

ORAL JUDGMENT

1. Learned advocate for the petitioner seeks permission to delete respondent nos.2, 4, 5, 6 and 7. Permission granted.

2. Rule. Learned advocate Mr. G.M.Joshi wavies service of rule on behalf of respondent no.1, Mr.Ritesh K. Soni wavies service of rule on behalf of respondent no.3 and Ms. Shah wavies service of rule on behalf of respondent no.8. At the joint request of learned advocates appearing for the parties, the petition is taken up for final disposal today.

3. After some discussion at the bar, this petition is being disposed of on broad consensus between the parties.

4. Learned Sr. Advocate Shri D.D.Vyas appearing with Shri R.A.Sejpal for the petitioner under instruction stated that in the disputed Dharmshala the Khambhalya Mataji Trust will not turn down any guest and subject to giving preference to the guests

belonging to the members of their community, all other guests will also be offered accommodation as per availability.

5. Learned advocates appearing for the petitioner submitted that the Charity Commissioner passed the impugned order without hearing all trustees. It was submitted on behalf of the petitioner that if proper opportunity is given, issues can be examined by the Charity Commissioner upon proper material that may be produced. Learned advocate Shri Joshi on behalf of the contesting respondents under instructions stated that though there are disputes about the ownership and management right of the Dharmshala, construction cost in fact was borne by the Khambhalya Mataji Trust.

6. Considering these aspects of the matter and taking note of statements made on behalf of rival parties, the proceedings are remanded to the Charity Commissioner for fresh consideration and disposal in accordance with law. For the said purpose impugned order dated 8th June, 2005 is quashed. The Charity

Commissioner shall decide the question afresh after hearing all necessary parties.

7. With these directions, the petition is disposed of. Rule made absolute accordingly. No costs.

(Akil Kureshi, J.)

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